

**COURT OF APPEALS
DECISION
DATED AND FILED**

August 26, 2014

Diane M. Fremgen
Clerk of Court of Appeals

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

Appeal No. 2013AP458

Cir. Ct. No. 2011CV16920

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT I**

BANK OF AMERICA, N.A.,

PLAINTIFF-RESPONDENT,

v.

SANDRA KASZA,

DEFENDANT-APPELLANT.

APPEAL from a judgment of the circuit court for Milwaukee County: JEFFREY A. CONEN, Judge. *Affirmed.*

Before Curley, P.J., Kessler and Brennan, JJ.

¶1 PER CURIAM. Sandra Kasza, *pro se*, appeals a judgment in favor of Bank of America, N.A. Kasza raises several arguments for the first time on appeal, but the dispositive issue is whether Bank of America was entitled to summary judgment in this foreclosure action. We affirm.

¶2 Bank of America filed an action against Kasza for foreclosure because Kasza defaulted on her mortgage. Bank of America moved for summary judgment based on the affidavit of Assistant Vice President Eileen Thiry, with its supporting documents. Kasza did not file a formal response, but filed a two-paragraph letter with the circuit court four days before the summary judgment hearing. Kasza did not appear at the hearing. The circuit court granted summary judgment in favor of Bank of America.

¶3 At the outset, we note that Kasza’s appellant’s brief is deficient. It contains only undeveloped legal arguments and conclusions that are not supported by legal authority. “We have often held that we will not consider propositions which are not specifically argued and are unsupported by citations to legal authority.” *Riley v. Town of Hamilton*, 153 Wis. 2d 582, 588, 451 N.W.2d 454 (Ct. App. 1989). Kasza also relies on documents that are not part of the appellate record. Absent exceptional circumstances not applicable here, we do not consider “assertions of fact that are not part of the record.” *Parr v. Milwaukee Bldg. & Constr. Trades*, 177 Wis. 2d 140, 144 n.4, 501 N.W.2d 858 (Ct. App. 1993). Finally, Kasza also does not explain what errors she believes the circuit court has made and instead raises several issues for the first time on appeal, arguing that her “loan has been converted into stock” and that Bank of America cannot foreclose on her house because her “loan has been securitized.” We will not consider arguments that are raised for the first time on appeal. *Jackson v. Benson*, 218 Wis. 2d 835, 901, 578 N.W.2d 602 (1998).

¶4 Despite the deficiencies in Kasza’s brief, we will address whether the circuit court properly granted summary judgment. Summary judgment is

appropriate when there are no disputed material facts and the moving party is entitled to judgment as a matter of law. *See* WIS. STAT. § 802.08 (2011-12).¹ We review a decision granting summary judgment *de novo*, applying the standards set forth in § 802.08. We first look at “whether the pleadings set forth a claim for relief as well as a material issue of fact.” *Swatek v. County of Dane*, 192 Wis. 2d 47, 61-62, 531 N.W.2d 45 (1995). “If the pleadings meet this initial test, our inquiry shifts to the moving party’s affidavits or other proof to determine whether a *prima facie* case for summary judgment has been presented.” *Id.* at 62. “If the moving party has made a *prima facie* case for summary judgment, we then examine the affidavits and other proof of the opposing party to discern whether there ‘exist disputed material facts, or undisputed material facts from which reasonable alternative inferences may be drawn, sufficient to entitle the opposing party to a trial.’” *Id.* (citation omitted). If there are no disputed material facts and the moving party shows that they are entitled to judgment as a matter of law, summary judgment should be granted. *Id.* at 61.

¶5 As previously stated, Bank of America’s motion for summary judgment was supported by the affidavit of Assistant Vice President Eileen Thiry. Thiry averred that Bank of America was successor by merger to BAC Home Loans Servicing L.P., and is the current servicing agent for the loan. She averred that the bank was in possession of Kasza’s promissory note, and attached to her affidavit a certified copy of the adjustable rate note, a copy of the notice of intent to accelerate payment of the mortgage due to the default, and documentation showing that Kasza has not made payments on the note as required, including a

¹ All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

detailed payment history and the total amount now due. The business records submitted by Bank of America were authenticated by Thiry. Based on Thiry's affidavit and supporting documentation, Bank of America made a *prima facie* case that it was entitled to a judgment of foreclosure.

¶6 Turning to Kasza's response, she submitted a letter stating: "I dispute that I owe money to Bank of America. I dispute that Bank of America is the current holder of the note." Kasza failed to submit an affidavit or any evidence to contradict Bank of America's documentation supporting its claim that it was the holder of the note, that Kasza had defaulted, and that it was entitled to foreclosure. Moreover, Kasza failed to appear at the summary judgment hearing. Because Kasza failed to show that there are disputed facts that needed to be tried and failed to show that Bank of America was not entitled to judgment as a matter of law, the circuit court properly granted summary judgment in Bank of America's favor.

By the Court.—Judgment affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5.

